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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,647	07/20/2005	Greg Balderston	206,924	7133

7590 04/19/2007  
Abelman Frayne & Schwab  
150 East 42nd Street  
New York, NY 10017-5612

EXAMINER
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KIM, SHIN H

ART UNIT	PAPER NUMBER
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3611

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/528,647

Applicant(s)

BALDERSTON, GREG

Examiner

Shin Kim

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gap must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the message or greeting (element 22) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be

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shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 recites the limitation "the gap" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17, 18, 20, 21, 23-25, 28, 29, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Neil K. Dawson U.S. Patent 5,771,614 (Dawson).

1. Regarding claim 17 and 28, Dawson discloses a greeting card (Figure 2 Element 20) including; a first leaf (Figure 2 Element 22), a second leaf (Figure 2 Element 24), and an expandable receptacle (Figure 2 region encompassing element 26) having a mouth through which the article to be retained may pass and a cavity located behind the mouth that is adapted to receive the article, said receptacle being located intermediate and connected to both said first leaf and second leaf, whereby the first leaf is capable of hinge like movement relative to the second leaf between closed position, wherein the two leaves overlies one another in a manner that at least partially closes the mouth, and an open position, wherein the two leaves are apart thereby opening the mouth and enabling the article to pass through the mouth if desired (Figure 2).

2. Regarding claim 18 and 29, Dawson discloses a greeting card wherein the two leaves (Figure 2 Element 22 and 24) and receptacle (Figure 1 Element 26) are of unitary construction.

3. Regarding claim 20 and 21, Dawson discloses a greeting card wherein the receptacle includes two opposing jaws that are hingedly connected together by a common web (Figure 2 Element 26) and wherein each jaw includes one or more wall portion (Figure 2, portion of Element 22 and 24 closest to element 26) that when combined define a cavity that is adapted to receive the article.

4. Regarding claim 23, Dawson discloses a greeting card wherein the mouth is defined by a gap separating opposing wall portions of the respective two jaws remote from the web (Figure 2).

5. Regarding claim 24, 25 and 33, Dawson discloses a greeting card wherein the web resembles a spring and is adapted to urge the opposing wall portions of the receptacle together such that they close about the article. The fold of Element 26 will ensure the closed position to be relative to this line.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 22, 26, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson in view of Robert Barreca et al. U.S. Patent 5,551,730 (Barreca).

1. Regarding claim 19 and 30, Dawson discloses a greeting card. Dawson does not directly disclose the greeting card to be constructed of a single piece of cardboard. Barreca discloses a greeting card constructed of a single piece of cardboard (Column 3 Lines 35-38).

Therefore it would have been obvious at the time the invention was made to modify Dawson as disclosed in Barreca to include Barreca's use of cardboard. Such a modification would provide a good material for construction of the greeting card folds.

2. Regarding claim 22, Dawson discloses a greeting card wherein the receptacle includes two opposing jaws that are hingedly connected together by a common web (Figure 2 Element 26) and wherein each jaw includes one or more wall portion (Figure 2, portion of Element 22 and 24 closest to element 26) that when combined define a cavity that is adapted to receive the article.

3. Regarding claim 26 and 34, Dawson discloses a greeting card comprised of a receptacle. Dawson does not directly disclose the receptacle to be

comprised of a thin walled piece of molded cardboard having a generally C-shaped transverse cross section, which is permitted to flex generally along an axis of symmetry. However, it is well known in the art when a layer of substrate, such as cardboard, is deformed and folded, the cross section of the fold will be a c-shaped profile. It is obvious and well known in the art that such a cross section exists.

Claims 27, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson.

1. Regarding claim 27, Dawson discloses a greeting card with an article (Figure 2 Element 10). Dawson does not directly disclose the article to be a candle. However, it would be obvious and well known in the art that Dawson's greeting card is adapted to hold any article, even a candle. Such a modification would provide a greeting card with any article suitable for an event.

2. Regarding claim 31, Dawson discloses a greeting card wherein the receptacle includes two opposing jaws that are hingedly connected together by a common web (Figure 2 Element 26) and wherein each jaw includes one or more wall portion (Figure 2, portion of Element 22 and 24 closest to element 26) that when combined define a cavity that is adapted to receive the article. Such a modification would provide a greeting card with any article suitable for an event.



3. Regarding claim 32, Dawson discloses a greeting card wherein the mouth is defined by a gap separating opposing wall portions of the respective two jaws remote from the web (Figure 2).


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin Kim whose telephone number is 571-272-7788. The examiner can normally be reached on (Monday - Friday) (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Shin Kim

  
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